



RAVALLI COUNTY ATTORNEY

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TO: Planning
CC: Commissioners ✓
FROM: Alex Beal, Deputy AB
DATE: June 25, 2007

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Ravalli County Commissioners

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RE: June 18th request for legal review, Reflection subdivision

In response to your 6-18-07 request for legal review, we spoke on the 22nd about this matter and I stated I would set out in writing a more formal answer.

Your question references a two-lot split east of Florence just off the Eastside Highway. The parent parcel of this lot has since been divided into 9 different lots, each 20 acres in size. You have asked whether this will be a first or subsequent minor subdivision. Pursuant to MCA § 76-3-609(2), subdivisions of 5 lots or less are first minor subdivisions unless they have been previously subdivided or were previously part of a parcel from which 5 or more sub-parcels have been created by § 76-3-201 (mostly used for mortgages) or 76-3-207 (boundary line relocations, family transfers, etc...).

I believe that the answer to this question lies in the size of the lots. Pursuant to § 76-3-104 (2005) a subdivision is only those parcels less than 160 acres. Prior to 1993, that number was 20 acres, thus all parcels 20 acres or larger were exempt from subdivision review and did not need to go through the subdivision process to be created. Parcels created pursuant to § 76-3-201 & 207 will note this on the deed, as the Clerk and Recorder will not file them otherwise. As such, looking at the plats will clarify if the parcel was created by either of those sections. If the parcel was created prior to the effective date of the 1993 amendment, and does not reference an exception such as § 76-3-207, it was not created by subdivision. If the parcel was created prior to 1993, there would have been no need to go through the exemption process, so I would be shocked if it was. If it was merely created by deed, as I expect, this will be a first minor subdivision, as it is the first subdivision of the property. However, please verify the date of the deed as well.